

REMARKS

Claims 40-64 are pending in the present application. Each of the independent claims, claims 40, 49, 58 and 64 are amended. Support for the claims amendments is found at least in FIGS. 1 and 4, and in the specification at least in paragraph [0022].

Applicant has thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the reference cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references.

35 U.S.C. § 102(a)

Claims 40-64 are rejected under 35 U.S.C. §102(b) or in the alternative under 35 U.S.C. §103(a) over Hood (U.S. Patent No. 5,935,143). The Applicant respectfully traverses this rejection.

Claim 40

The Office Action states, among other things, that Hood discloses "a first and second straight portion of an ultrasonic blade." As recited in the embodiment recited in independent claim 40, the claim recites "the cutting edge comprising a first straight portion connected to a section straight portion via a curved portion, the first and second straight portions are angled with respect to each other and with respect to the body axis." Hood does not disclose this limitation of claim 40.

In contrast, Hood discloses a serrated cutting edge. In order for Hood's "cutting edge" to have straight portions, the serrations would have to be removed from the blade. And even if the serrations were removed, the straight edges identified in the Office Action as the left and right sides of the top portion of the blade in FIG. 2, are not "angled with respect to each other and with respect to the body axis."

In fact, Hood teaches away from the embodiment disclosed in claim 40. The surgical blade in Hood is designed for medical use and the serrations are needed to cut into tissue. *See*, col., 2 lines 50-52 ("The blade comprises at least two teeth..."); column 7, lines 58-65 ("The advantageous shape of the teeth **46** of the blade **26**, shown in FIG. **5**, provides an enhanced feel of cut at all times. A straight-edged ultrasonic knife blade will slip through tissue with a

substantially constant resistance due to the blade edge being everywhere parallel to the tissue. Ultimately, the surgeon might apply more pressure than necessary, without realizing the depth of cut, and sever tissue not intended to be cut.”); *see also*, the Abstract, lines 4-7 (“Tooth configuration on the knife cooperates with the stroke of the ultrasonic drive to produce efficient cutting, as well as tactile feedback to the surgeon with respect to the rate of cutting, and changes in tissue density.” Without the serrations, the purpose for which the blade is designed cannot be accomplished.

Furthermore, Hood also teaches away from limitation of claim 40 which recites that “the first and second straight portions are angled with respect to each other and with respect to the body axis.” Hood states repeatedly throughout the specification that an objective of the invention of Hood is to provide a reduced thermal footprint. See col. 3, lines 16-21; col. 6, lines 4-6; col. 6, lines 10-12; col. 6, lines 25-28; col. 13, lines 45-49; col. 21, lines 20-22; and col. 22 lines 18-20). Hood reduces the thermal footprint of the blade by reducing the size of the areas in contact with the tissue being cut. If the straight portions of Hood, as identified in the Office Action, were angled with respect to each other and with respect to the body axis, the thermal footprint of the blade would be increased, which is the reverse of what Hood is trying to accomplish. Thus, the Applicant submits that providing a cutting edge with first and second straight portions that are angled with respect to each other and with respect to the body axis is not disclosed by Hood.

In view of the foregoing remarks, the Applicant respectfully submits that claim 40 is not disclosed by Hood, and is therefore in condition for allowance. Additionally, since claims which depend from an allowable claim are also in condition for allowance, claims 41-48 which depend from claim 40 are also in condition for allowance.

Claim 49

Similarly, independent claim 49 includes the same limitation of claim 40. Specifically, claim 49 recites “the cutting edge comprising a first straight portion connected to a section straight portion via a curved portion, the first and second straight portions are angled with respect to each other and with respect to the body axis.”

For the same reasons stated above, in support of the lack of anticipation and nonobviousness of claim 40 over Hood, independent claim 49 is submitted to also to be allowable over Hood. Additionally, since claims which depend from an allowable claim are also

in condition for allowance, claims 50-57 which depend from claim 49 are also submitted to be in condition for allowance.

Claim 58

Similarly, independent claim 58 includes the same limitation of claim 40. Specifically, claim 58 recites “the cutting edge comprising a first straight portion connected to a section straight portion via a curved portion, the first and second straight portions are angled with respect to each other and with respect to the body axis.”

For the same reasons stated above, in support of the lack of anticipation and nonobviousness of claim 40 over Hood, independent claim 58 is also submitted to be allowable over Hood. Additionally, since claims which depend from an allowable claim are also in condition for allowance, claims 59-63 which depend from claim 58 are also submitted to be in condition for allowance.

Claim 64

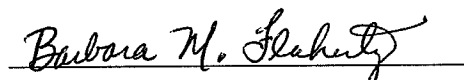
Finally, independent claim 64 also includes the same features of the limitation of claim 40 discussed above. Specifically, claim 64 recites “a first substantially straight blade portion on the first side of said body connected to a second substantially straight portion blade portion on the second side of said body by a curved blade portion to form a substantially continuous blade profile, wherein said first and second straight portions are angled with respect to each other and with respect to the body axis.”

For the same reasons stated above, in support of the allowability of claim 40 over Hood, independent claim 64 is also submitted to be in condition for allowance.

Conclusion

All rejection and objections having been addressed, it is submitted that the above-identified application is in condition for allowance. An early and favorable action on the merits is respectfully requested. The Commissioner is authorized to charge the one-month extension of time fee to Deposit Account 50-2036. If the Commissioner deems it necessary, please charge any deficiency or credit any overpayment to Deposit Account 50-2036, referencing attorney docket no. 5165.1460.

Respectfully submitted,

A handwritten signature in cursive script, reading "Barbara M. Flaherty", is written over a horizontal line.

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